

HOUSE BILL NO. 4166

February 04, 2021, Introduced by Rep. Frederick and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 5451 (MCL 600.5451), as amended by 2012 PA 451.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5451. (1) A debtor in bankruptcy under the bankruptcy
- 2 code, 11 USC 101 to 1532, may exempt from property of the estate
- 3 property that is exempt under federal law or, under 11 USC
- 4 522(b)(2), the following property:
- 5 (a) All of the following:

1 (i) Family pictures.

2 (ii) Arms and accoutrements required by law to be kept by a
3 person.

4 (iii) Wearing apparel, excluding furs.

5 (iv) Cemeteries, tombs, and rights of burial in use as
6 repositories for the dead of the debtor's family or kept for burial
7 of the debtor.

8 (v) Professionally prescribed health aids.

9 (b) Provisions and fuel for comfortable subsistence of each
10 householder and his or her family for 6 months.

11 (c) The interest, not to exceed a value of \$450.00 in each
12 item and an aggregate value of \$3,000.00, in household goods,
13 furniture, utensils, books, appliances, and jewelry.

14 (d) The interest, not to exceed \$500.00 in value, in a seat,
15 pew, or slip occupied by the debtor or the debtor's family in a
16 house or place of public worship.

17 (e) The interest, not to exceed \$2,000.00 in value, in crops,
18 farm animals, and feed for the farm animals.

19 (f) The interest, not to exceed \$500.00 in value, in household
20 pets.

21 (g) The interest, not to exceed \$2,775.00 in value, in 1 motor
22 vehicle.

23 (h) The interest, not to exceed \$500.00 in value, in 1
24 computer and its accessories.

25 (i) The interest, not to exceed \$2,000.00 in value, in the
26 tools, implements, materials, stock, apparatus, or other things to
27 enable a person to carry on the profession, trade, occupation, or
28 business in which the person is principally engaged.

29 (j) Money or other benefits paid, provided, allowed to be paid

1 or provided, or allowed, by a stock or mutual life, health, or
2 casualty insurance company because of the disability due to injury
3 or sickness of an insured person, whether the debt or liability of
4 the insured person or beneficiary was incurred before or after the
5 accrual of benefits under the insurance policy or contract, except
6 that this exemption does not apply to actions to recover for
7 necessities contracted for after the accrual of the benefits.

8 (k) All individual retirement accounts, including Roth IRAs,
9 or individual retirement annuities as defined in section 408 or
10 ~~408a~~**408A** of the internal revenue code **of 1986**, 26 USC 408 and
11 ~~408a~~**408A**, and the payments or distributions from those accounts
12 or annuities. This exemption applies to the operation of the
13 federal bankruptcy code as permitted by section 522(b)(2) of the
14 bankruptcy code, 11 USC 522. This exemption does not apply to the
15 amount contributed to an individual retirement account or
16 individual retirement annuity within 120 days before the debtor
17 files for bankruptcy. This exemption does not apply to any of the
18 following:

19 (i) The portion of an individual retirement account or
20 individual retirement annuity that is subject to an order of a
21 court pursuant to a judgment of divorce or separate maintenance.

22 (ii) The portion of an individual retirement account or
23 individual retirement annuity that is subject to an order of a
24 court concerning child support.

25 (iii) The portion of an individual retirement account or
26 individual retirement annuity that is attributable to contributions
27 to the individual retirement account or premiums on the individual
28 retirement annuity, including the earnings or benefits from those
29 contributions or premiums, that, in the tax year made or paid,

exceeded the deductible amount allowed under section 408 of the internal revenue code **of 1986**, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan, or other plan that is qualified under section 401 of the internal revenue code **of 1986**, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code **of 1986**, 26 USC 403.

(l) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code **of 1986**, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code **of 1986**, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest is subject to either of the following:

(i) An order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) An order of a court concerning child support.

(m) The interest of the debtor, the codebtor, if any, and the debtor's dependents, not to exceed ~~\$30,000.00~~ **\$150,000.00** in value ~~or, if the debtor or a dependent of the debtor at the time of the filing of the bankruptcy petition is 65 years of age or older or disabled, not to exceed \$45,000.00 in value,~~ in a homestead.

1 (n) Property described in section 1 of 1927 PA 212, MCL
2 557.151, or real property, held jointly by a husband and wife as a
3 tenancy by the entirety, except that this exemption does not apply
4 with regard to a claim based on a joint debt of the husband and
5 wife.

6 (o) If the owner of a homestead dies, leaving a surviving
7 spouse but no children, the surviving spouse before his or her
8 remarriage, unless the surviving spouse is the owner of a homestead
9 in his or her own right, may exempt the homestead and the rents and
10 profits of the homestead.

11 (2) An exemption under this section does not apply to a
12 mortgage, lien, or security interest in the exempt property that is
13 consensually given or lawfully obtained unless the lien is obtained
14 by judgment, attachment, levy, or similar legal process in
15 connection with a court action or proceeding against the debtor.

16 (3) If property that is exempt under this section is sold,
17 damaged, destroyed, or acquired for public use, the right to
18 receive proceeds or, if the owner receives proceeds and holds them
19 in a manner that makes them identifiable as proceeds, the proceeds
20 received are exempt from the property of a federal bankruptcy
21 estate in the same manner and amount as the exempt property. An
22 exemption under this subsection may be claimed up to 1 year after
23 the receipt of the proceeds by the owner.

24 (4) On March 1, 2005 and at the end of each 3-year period
25 after 2005, the state treasurer shall adjust each dollar amount in
26 this section or, for each adjustment after March 1, 2005, each
27 adjusted amount, by an amount determined by the state treasurer to
28 reflect the cumulative change in the ~~consumer price index~~ **Consumer**
29 **Price Index** for the 3-year period ending on the December 31

preceding the adjustment date and rounded to the nearest \$25.00.
The state treasurer shall publish the adjusted amounts. The
adjusted amounts apply to cases filed on or after April 1 following
the adjustment date.

(5) As used in this section:

(a) "~~Consumer price index~~" **Price Index**" means the ~~consumer~~
~~price index~~ **Consumer Price Index** for all urban consumers in the
area of Detroit-Ann Arbor-Flint, Michigan, published by the United
States ~~department of labor~~ **Department of Labor** or, if the United
States ~~department of labor~~ **Department of Labor** ceases publishing
that index, the most similar index available.

(b) "Disabled" means unable to engage in substantial gainful
activity, as defined by 42 USC 1382c(a)(3)(E), as a result of a
physical or mental impairment and receiving supplemental security
income under 42 USC 1382c(a)(3)(A) and (C).

(c) "Proceeds" means money payable or paid as a result of 1 or
more of the following:

(i) Sale of the property.

(ii) Insurance or other indemnification for damage or
destruction of the property.

(iii) Compensation for the acquisition for public use of the
property.

(d) "Homestead" means 1 of the following owned or being
purchased under an executory contract by the debtor that the debtor
or a dependent of the debtor occupies as his or her principal
residence:

(i) If the land is located outside of a recorded plat, city, or
village, a residential dwelling and appurtenances and the land on
which they are situated, not exceeding 40 acres.

(ii) If the land is located within a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 1 lot or parcel.

(iii) A residential dwelling situated on land not owned by the debtor.

(iv) A condominium unit.

(v) A unit in a cooperative.

(vi) A motor home.

(vii) A boat or other watercraft.

(e) "Residential dwelling" includes, but is not limited to, a house or a manufactured or mobile home.